

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

VASILICA CECILIA ANITEI,

Plaintiff,

V.

## PORT OF SEATTLE.

Defendant.

C13-545 TSZ

## MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Defendant's motion for protective order, docket no. 39, is STRICKEN. In its motion, defendant sought a protective order as to the depositions of, and documents sought from, eight employees of the Port of Seattle, as well as defendant's expert Douglas Robinson, M.D. Counsel for defendant has since represented to the Court that all of these depositions have been conducted and that the requested documents have been produced or do not exist. Augenthaler Decl. at ¶¶ 3 & 4 (docket no. 59). Defendant's motion is therefore moot.

(2) Plaintiff's motion to compel discovery, docket no. 55, is STRICKEN in part and DENIED in part as follows.<sup>1</sup>

(i) With respect to the depositions of, and documents sought from, specific employees of the Port of Seattle, plaintiff's motion is STRICKEN as moot for the same reasons discussed in Paragraph 1, above. With respect to the

<sup>1</sup> Although the motion to compel was untimely filed and improperly noted for the second Friday after filing, the Court has considered it on its merits. The motion to compel was renoted by the case administrator to the third Friday after filing, and defendant had sufficient opportunity to, and did, respond. Plaintiff's related "ex parte" motion for extension, docket no. 60, is therefore STRICKEN as moot.

1 deposition of defendant's expert Douglas Robinson, M.D., plaintiff's motion is  
2 likewise STRICKEN as moot.

3 (ii) To the extent that plaintiff's motion seeks an order compelling  
4 Dr. Robinson to produce documents, plaintiff's motion is DENIED. The Court is  
5 persuaded that Dr. Robinson has interposed appropriate objections to the requests  
6 set forth in the subpoena duces tecum served on March 25, 2014. See Objection  
7 (docket no. 46). Plaintiff's counsel has not provided the requisite notice to  
8 Dr. Robinson of the motion to compel, see Fed. R. Civ. P. 45(d)(2)(B)(i); see also  
9 Proof of Service (docket no. 56-5), and has not explained why plaintiff would be  
10 entitled to a copy of the copyrighted and contractually protected Minnesota  
11 Multiphasic Personality Inventory ("MMPI") questionnaire or to copies of all  
12 expert reports Dr. Robinson has ever prepared.

13 (iii) To the extent that plaintiff requests sanctions, the motion is DENIED  
14 in part and STRICKEN in part. With regard to the depositions set in late March,  
15 the Court is satisfied that the employees of the Port of Seattle and Dr. Robinson  
16 had a good faith basis to believe that they had not been properly served and were  
17 therefore not required to appear for such depositions, and the related motion for  
18 attorney fees and costs is DENIED. As to the alleged evasiveness or lack of  
19 cooperation of certain deponents and the various accusations about defendant's  
20 attorney's conduct during depositions, the motion for sanctions is STRICKEN as  
21 improperly raised for the first time in the reply brief, thereby inhibiting defendant  
22 from offering any response.

23 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of  
record.

Dated this 3rd day of June, 2014.

16 William M. McCool  
17 Clerk

18 s/Claudia Hawney  
19 Deputy Clerk